Supreme Court, U. S.
FILED
AUG 5 1976
MICHAEL RODAK, JR., CLERK

IN THE

# SUPREME COURT OF THE UNITED STATES

October Term, 1976

No. 75-1733

SALLY LEE SIMON, *Petitioner*

*v.*

CHARLES SIMON, *Respondent*

## REPLY BRIEF FOR PETITIONER

On Writ of Certiorari to the Supreme Court of Florida.

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## PETITIONER'S ANSWER TO RESPONDENT'S BRIEF

**As to the Respondent's Rejection of Petitioner's Factual Statements; Answered Seriatum.**

1. A contention the proceeding in the lower courts is devoid of orders demonstrating that it would not accord full faith and credit to the Florida Injunction.

Subsequent to the original order of the Florida court, Philadelphia counsel for the respondent filed a motion for judgment on the pleading in reliance thereof and as each order of the Florida court affirmed the original order, there was filed an amended motion for judgment on the pleadings and lastly after the final summary judgment of October 24, 1974, an amended, amended motion for judgment on the pleadings. The attached appendix contains copies of the exemplified Prothonotary's docket entries of the Court of Common Pleas of Philadelphia County which show that all of the motions for judgment on the pleadings relying on the Florida judgment were denied. As recited in the petition for writ of certiorari, subsequently, a petition for reconsideration was granted on November 17, 1975, and further proceedings in connection with the law suits were stayed pending a final determination of the Florida litigation.

2. Respondent disputes the value of the Philadelphia real estate.

There is contained in the attached appendix a memorandum which was prepared on or about January 10, 1972, as a working paper incident to settlement discussions between prior counsel for the respondent and Philadelphia counsel for the petitioner. It reflects the notations made at the time. It lists the real estate involved, the encumbrances thereon and the net value which was at the time agreed upon. It shows the gross value to be $9,625,000 encum-





brances, $5,865,000, and the net value of $3,911,000. It may be assumed the values have increased since January 10, 1972.

3. As to the forgery of the petitioner's signatures on deeds.

The appendix includes an affidavit by Robert J. O'Neill, a questioned document examiner with the Police Department of the City of Philadelphia, with a prior experience of having examined approximately 18,000 questioned documents over a period of six years with appearances in every level of court administration. He examined two of the deeds. The one JRS 535, 414 included five parcels and the other JRS 565, 064, which included a substantial parcel.

4. This is again a reference to the successive motions for judgment on the pleadings and the response to number 1 is herein incorporated.

5. Respondent disputes the petitioner's statement that the Florida divorce judgment adjudicated only the Florida real estate owned by the parties.

The opinion of Judge Harding on the motion to dismiss (A8) appears to make it clear:

> ". . . and the court by order refusing to permit the amendment to pleading for not being timely filed, permitted and directed the matter to proceed without an adjudication thereof in the final judgment. . . .
> ". . . .
> "The court, in the dissolution action, did not have the property rights of the parties to the property in Pennsylvania before it as an issue to be determined by final judgment. Therefore, the final judgment did not adjudicate those property rights except as they may be adjudicated by operation of law. . . ."

Inasmuch as there was no adjudication of the Pennsylvania property rights, it would follow there could be no findings of fact with reference thereto.

It is respectfully submitted the balance of the statements made under respondent's number 5 are excerpts taken out of context.

It is also apparent from Judge Harding's opinion (A8) that the Pennsylvania actions had been instituted prior to the Florida divorce trial in which he said: "it was also known to the court that there was, as alleged in the plaintiff's complaint in the instant cause, pending the [sic] actions in the Pennsylvania courts relative to the interests of the parties therein."

6. The statement that the issues involved were not raised in the Florida proceedings is answered by Judge Harding's opinion at A8 where initially he said: "the Plaintiff seeks to enjoin the Defendant from proceeding in certain actions in the courts of Pennsylvania relative to the property rights of the parties in certain property allegedly owned by the Plaintiff in the State of Pennsylvania." Subsequently, he stated: "the parties were at one time married and their marriage was dissolved in the Circuit Court in and for the Eleventh Judicial Circuit, in and for Dade County, Florida, case number 68-19724.

. . . .

> "In the dissolution proceeding the husband, (Plaintiff here), sought to have property rights of the parties to the Pennsylvania property litigated and made a part of the final judgment of dissolution of marriage. These efforts were resisted by the wife."

In the memorandum of law filed on behalf of the respondent by his attorney, he argued as *Point I-C* "Florida courts have jurisdiction in a divorce action to make a determination of the rights and liabilities of the parties in



foreign realty." As *Point I-D*, "The Judgment of divorce entered between the parties constitutes a judicial determination of all property rights, is res judicata in any subsequent litigation." And, *Point II*, "The Florida final judgment of divorce is entitled to full faith and credit and the facts established therein are res judicata and a bar to prosecution of the actions in Pennsylvania."

In the District Court of Appeal (A13), Judge Harding in his final judgment dissolving marriage (A1), his order on the motion to dismiss (A8), summary final judgment for the plaintiff (A14), all relied on the principle that there was a determination of the title to Pennsylvania real estate by operation of law. Moreover, in the brief filed in the district court of appeal by Heller and Kaplan, Esquires, *Point 1* was "Whether the summary judgment was improvidently granted", and in the argument, reference was made to the forgeries. *Point* 2 argued the question of "Whether the Pennsylvania courts should give the Florida judgment full faith and credit," and the argument emphasized "the absence of any citation for the proposition wherein a court of equity has permitted an operation by law "res judicata" concept, to be used as a sword in a case involving fraud and forgery without a complete hearing". *Point* 3 argued "Whether it was erroneous to enjoin foreign actions involving separate issues of third parties."

## ARGUMENT

**I. The controversy involves the application of one of two doctrines—whether the Florida result affected Pennsylvania real estate directly or indirectly.**

It may be said that the legal arguments confronting this Court involves the two basic doctrines as stated by Mr. Justice McKenna in the majority opinion of *Fall v. Easton*, 215 U.S. 1, 30 S.Ct. 3, 54 L. Ed. 65 (1909),

> "[T]he doctrine that the court, not having jurisdiction of the res, cannot affect it by its decree, nor by a deed made by a master in accordance with the decree, is firmly established * * * [I]t rests, as we have said, on the well-recognized principle that when the subject-matter of a suit in a court of equity is within another state or country, but the parties within the jurisdiction of the court, the suit may be maintained and remedies granted which may directly affect and operate upon the person of the defendant and not upon the subject-matter, although the subject-matter is referred to in the decree, and the defendant is ordered to do or refrain from certain acts toward it, and it is thus ultimately but *indirectly* affected by the relief granted. In such case, the decree is not of itself legal title, nor does it transfer the legal title. It must be executed by the party, and obedience is compelled by proceedings in the nature of contempt, attachment or sequestration. On the other hand, where the suit is strictly local, the subject-matter is specific property, and the relief when granted is such that it *must* act directly upon the subject-matter, and not upon the person of the defendant, the jurisdiction must be exercised in the state where the subject-matter is situated. 3 Pomeroy's Eq., §§1317, 1318, and notes."



The cases which discuss either one or both of the doctrines have been collected in 34 A.L.R. 3d. Beginning at page 968, the authorities support the concept a divorce court in one state does not have the power to directly affect, by means of its decree, the title of real property situate in another state. At page 975, are the cases which dicuss the power of a court of equity with personal jurisdiction over a party to indirectly affect real property in another state by means of an in personam decree operating upon the party over whom the court has jurisdiction. The cases recited in the respondent's brief came principally from the foregoing.

The essence of the cases cited by the respondent is a determination the court had before it an equitable suit in personam latched to a personal obligation of the respondent arising out of a contractual relationship, an equitable distribution by a divorce court of marital property which does not contravene policy and the like.

*It will be observed that the action of the Florida court does not rise to the level of a decree or award.*

It has availed itself of the doctrine, individual to the State of Florida, under the facts in the instant case that the property rights of the parties to the Pennsylvania real estate was determined by operation of Florida law.

It was obviously a fact in the Florida proceeding the Pennsylvania property was in the name of the husband (A-8). However, it does not appear arguable there was any finding of fact determining Pennsylvania title as it is eminently clear there was no adjudication with reference thereto (A-8).

The respondent's principal reliance is on *Allis v. Allis*, 378 F.2d 721 (5th Cir. 1967), discussed at pages 30 through 33 of his brief.

It is respectfully submitted *Allis* falls within the category of the cases which find support in a determination that there is a personal obligation for the transfer of title

In passing, it might be noted even where such circumstances are present the decree does not become self-executing in the state of the situs but rather leaves it to that state to determine whether the award or decree of the domestic state shall be enforced on the basis of comity or the principle of res judicata.

In *Allis*, the parties litigated in the Nevada court the equitable division of the marital property and a reasonable sum by way of alimony.

The court made its decision "after a full trial on the merits, . . ." (723). At page 725,

> ". . . Both spouses personally appeared in the Nevada proceedings, voluntarily subjecting themselves to the in personam jurisdiction of the Nevada court. In her counterclaim, appellant affirmatively invokes the power of that court to award the divorce to her and *to adjudicate her interests in the marital property.* She did not at that time, nor does she now urge that the in personam jurisdiction thus acquired by the Nevada court was in any respect improper. . . ." (Emphasis Supplied)

The court referred to the Texas case of *McElreath v. McElreath*, 162 Texas 190, 340 S.W. 2d 722 (1961), and called attention to the recognition of the ". . . foreign decree on principles of comity rather than the doctrine of full faith and credit", and amplified this by quoting at page 724:

> ". . . Our holding therefore is that as a matter of comity we will enforce the equitable decrees of a sister state affecting Texas land so long as such enforcement does not contravene an established public policy in this State."

Had Judge Harding permitted a hearing on the merits as to the Pennsylvania property titles, it would of necessity



have brought into play Pennsylvania law, the alleged forgery in the execution of the deeds and the absence of any consideration. If pursuant thereto Judge Harding had made a determination as to the Pennsylvania titles, it would appear that *Allis* would be applicable.

However, it may be reiterated the Florida court was wanting in all of the said respects. The respondent now seeks to give the result under the unique Florida laws an effect which would deprive petitioner of her interest in the Pennsylvania real estate without a right to be heard.

In the more recent case of *Estabrook v. Wise*, 506 S.W. 2d 248 (Texas 1974), the court again had before it a controversy as to distribution of marital property which consisted of real estate in a foreign state and asserted not to have been disclosed by the husband in the divorce action. The decision discusses the two concepts which are referred to hereinabove. It makes the distinction between an action which directly affects the real estate and an action which affects the person and indirectly the real estate. At page 252, the court said:

> ". . . We do not disagree with these cases to the effect that a Texas court does not have power or jurisdiction to render a judgment or decree which acts directly upon the title to real property situated in another state. . . ."

In that case, as in *Higginbotham v. Higginbotham*, 222 A.2d 120 (N.J. 1966), the New Jersey court had before it the question as to whether to accord full faith and credit to an action which was grounded on the right of the Florida court to make an award of real estate as part of alimony, at page 129:

> ". . . We do not consider that Florida's award of lump sum alimony, in the form of ordering a conveyance in lieu of money payment, so offends New Jersey policy as to call for our denying full faith and credit to its decree. And we perceive no interference with our

policy regarding land titles if plaintiff is given the relief she seeks—at least under the circumstances of this case."

**II. Supplement as to the Florida result without a consideration of the merits.**

In the Petition for Certiorari, there is a discussion at Subsection C (page 12), "Judgments in foreign states not on the merits or where an issue is withdrawn by the first court, cannot act as res judicata to claims in Pennsylvania."

There is a desire to supplement the discussion with the following:

In *Buchanan v. Banks*, 192 Pa. 516 (1899), the dismissal of a petition to open a judgment, on the ground of *res judicata*, was reversed. At page 525, the Pennsylvania Supreme Court articulated the policy reasons which compelled such a result:

> "The most important question then developed was whether she had a right to be heard in the courts when she certainly did have a cause that required a hearing. It is one thing to decide against litigant, but it is a very different, and far more important, thing to decide that a litigant shall not be heard at all. This particular litigant was so situated that she had but one thing she could do. A judgment was entered against her, not by her own act, but by the act of her adversary under an assumed contract right to do so. She must get rid of that judgment in order to assert her rights and have them actually tried. She attempted to get this opportunity in the only way it could be done, by asking to have the judgment opened, and she was not allowed to have even the opportunity to be heard. And because she was denied this opportunity in the beginning, she was denied it all the way through the subsequent proceedings. This was the



> radical error of the case, and when it was repeated on the last application to open judgment, she had a just cause of appeal to this court. When this judgment has been opened, and she has been allowed to be heard on the merits of her case, if it is then decided that the merits are against her, she at least cannot complain that the doors of the temple of justice have been closed against her."

See also *Pusey's Estate*, 321 Pa. 248, 270 (1936).

In *Makariw v. Rinard*, 336 F.2d 333 (3d Cir. 1964), *rev'g*, 222 F. Supp. 336 (E.D. Pa.), a dismissal of a complaint on the ground of *res judicata* was reversed. Judge Kalodner pointed out that the plaintiff

> "[h]as not had her day in court on the critical issues which premise her suit, and therefore, it was error to dismiss her action before its merits were litigated." 336 F.2d at 336.

To the same effect is *Tomiyasu v. Golden*, 358 F.2d 651, 654 (9th Cir. 1966):

> "The circumstances of this claim are unusual, to say the least. But the claim does raise a genuine issue of fact which we do not think the district court was entitled to ignore. If the contention that appellants were not parties to the prior state court action is true, and for the purposes of reviewing the summary judgment below we must assume that it is true, then it would appear that these appellants have not had their day in court and should not be barred by a plea of res judicata from attacking the judgment of the Nevada court insofar as that judgment purports to affect their interest in the property involved. In the first instance, then, the court below erred in disposing of this cause upon appellees' motion for summary judgment."

**III. On the timeliness of the Petition for Writ of Certiorari.**

In the argument before Judge Harding on the motion for a stay pending the filing of a petition with this Court for a stay pending a review on certiorari, counsel for the respondent argued that petitioner had no standing to take an appeal to the United States Supreme Court because it was not timely. Judge Harding rejected the contention.

The petition to the Florida Supreme Court for a Writ of Certiorari was noticed on October 10, 1975, and the petition was supported by a brief assigning seven different points citing nine different decisions by the District Court of Appeals of Florida and two by the Supreme Court of Florida seeking to demonstrate that the issue was a proper one for consideration by the Supreme Court (A19). The final decision by the Supreme Court was made on March 10, 1976, and the Petition for Writ of Certiorari was filed on May 28, 1976.

The respondent relies upon *Nash v. Florida Industrial Commission,* 389 U.S. 235, 237, 88 S. Ct. 362, 365 (1967). The respondent omitted to disclose that the appeal was from the Florida Industrial Commission Unemployment Compensation Board of Review, and Mr. Justice Black stated at page 365:

> ". . . Since such denial by the Florida District Court of Appeal apparently precludes further state review, we granted certiorari because of the important constitutional question involved, specifically whether the Commission's ruling violates the Supremacy Clause of the Constitution (Art. VI, cl. 2) because it allegedly 'frustrates' enforcement of the National Labor Relations Act, 49 Stat. 449, 29 U.S.C. §151, et seq."

Again, in the footnote at page 365:

> "1. The Florida Supreme Court seems to have decided that it lacks jurisdiction by appeal to consider *per curiam* denials of certiorari by the Florida District Court of Appeal. Callendar v. State, Fla., 181 So. 2d 529. While it is true that a district court of appeal may certify a question "of great public interest" to the Florida Supreme Court, this is done upon the district court of appeal's own motion, and although litigants may file a suggestion that a particular question be certified, such suggestion has been declared to have "no legal effect." See Whitaker v. Jacksonville Expressway Authority, 131 So.2d 22 (1st D.C. App. Fla. 1961). Thus, it is impossible for us to say that under Florida law petitioner have had any right to call upon the State Supreme Court for review. In these circumstances, we therefore are unable to say that the District Court of Appeal was not the highest court in Florida wherein a decision could be had as required by 28 U.S.C. § 1257(3)."



It is apparent that the limitation of appeal in *Nash* is not present in the instant case.

## CONCLUSION

In this proceeding, the petitioner seeks to avert deprivation of her property without the opportunity to be heard and to establish the ineffectiveness of the Florida determination.

If the Florida result has the efficacy which respondent asserts, he will have the opportunity to demonstrate the same in Pennsylvania where legal principles indigenous to that state will be considered in determining the titles. This would appear to be among others a raison d'etre for the limitation of a state to affect titles in a foreign state directly.

Respectfully submitted,

Michael H. Egnal
*Attorney for Petitioner*

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Daniel Neal Heller
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1205 Ainsley Bldg.
Miami, Fla. 33132



## CERTIFICATE OF SERVICE

I hereby certify that 3 true and correct copies of the within Answer to Respondent's Brief and Appendix were mailed this 3rd day of Aug. 1976, to Jack D. Burris, 420 Lincoln Road, Miami Beach, Florida 33139.

MICHAEL H. EGNAL
*Attorney for Petitioner*

IN THE
COURT OF COMMON PLEAS
OF PHILADELPHIA COUNTY

No. —, Vol. 6

December Term, 1971 No. 4056

SALLY LEE SIMON

*v.*

CHARLES SIMON & SANDRA PENNOCK, Defts. & Garnishees to wit:
GIRARD BANK & THE FIRST PENNA. BANK & TRUST CO. &
INDUSTRIAL VALLEY BANK & TRUST CO. &
FRANKFORD TRUST CO., Garnishees

**Be It Remembered,** that I, AMERICO V. CORTESE, Prothonotary of the Court of Common Pleas, Vol. 6, for Philadelphia County, do hereby certify that the following is a true and correct copy of a Part of DOCKET ENTRIES in the above case:

Mar. 14, 1975 Ordered that the defendants Charles Simons Motion for Judgment on the Pleadings is denied.

Mar. 14, 1975 Order entered. Dandridge, J.

Mar. 14, 1975 Ordered that the Deft. Charles Simon's amended, amended Motion for Judgment on the Pleadings and the amended Motion for Judgment on the Pleadings and the Original motion for Judgment on the Pleadings is denied.

Mar. 14, 1975 Order entered. Dandridge, J.

In Testimony Whereof, I have hereunto set my hand and affixed the seal of said Court this 18th day of April in the year of our Lord one thousand nine hundred seventy-five (1975).

/s/
Americo V. Cortese
*Prothonotary*
1980

[SEAL]



IN THE
COURT OF COMMON PLEAS
OF PHILADELPHIA COUNTY

No. —, Vol. 6

December Term, 1971 No. 4136

SALLY LEE SIMON

*v.*

CHARLES SIMON

**Be It Remembered,** that I, AMERICO V. CORTESE, Prothonotary of the Court of Common Pleas, Vol. 6, for Philadelphia County, do hereby certify that the following is a true and correct copy of a Part of DOCKET ENTRIES in the above case:

Mar. 14, 1975 Ordered that Deft. Charles Simon's Motion for Judgment on the Pleadings is denied.

Mar. 14, 1975 Order entered. Dandridge, J.

Mar. 14, 1975 Ordered that the defendant Charles Simons amended, amended Motion for Judgment on the Pleadings and the amended Motion for Judgment on the Pleadings is denied.

Mar. 14, 1975 Order entered. Dandridge, J.

In Testimony Whereof, I have hereunto set my hand and affixed the seal of said Court this 18th day of April in the year of our Lord one thousand nine hundred seventy-five (1975).

/s/
Americo V. Cortese
*Prothonotary*
1980

[SEAL]

IN THE
COURT OF COMMON PLEAS
OF PHILADELPHIA COUNTY

No.

September Term, 1971 No. 2113

SALLY LEE SIMON

*v.*

CHARLES F. SIMON

**Be It Remembered,** that I, AMERICO V. CORTESE, Prothonotary of the Court of Common Pleas, for Philadelphia County, do hereby certify that the following is a true and correct copy of a Part of DOCKET ENTRIES in the above case:

March 14, 1975. Ordered that the Deft. Charles Simons Motion for Judgment on the Pleadings is denied. Order entered. Dandridge, J.

In Testimony Whereof, I have hereunto set my hand and affixed the seal of said Court this 18th day of April in the year of our Lord one thousand nine hundred seventy-five (1975).

/s/
Americo V. Cortese
*Prothonotary*
1980

[SEAL]



IN THE
COURT OF COMMON PLEAS
OF PHILADELPHIA COUNTY

No.

December Term, 1971 No. 3508

SALLY LEE SIMON

*v.*

CHARLES SIMON AND JOSEPH H. SIMON, M.D. AND
BEVERLY W. SIMON

**Be It Remembered,** that I, AMERICO V. CORTESE, Prothonotary of the Court of Common Pleas for Philadelphia County, do hereby certify that the following is a true and correct copy of a Part of DOCKET ENTRIES in the above case.

March 14, 1975. Ordered that the Defendant Charles Simons amended motion for judgment on the pleadings and the amended motion for judgment on the pleadings is denied. Ordered entered. Dandridge, J.

In Testimony Whereof, I have hereunto set my hand and affixed the seal of said Court this 18th day of April in the year of our Lord one thousand nine hundred seventy-five (1975).

/s/
Americo V. Cortese
*Prothonotary*
1980

[SEAL]

| DESCRIPTION OF PROPERTY | VALUE | ENCUMBRANCE | NET VALUE |
|---|---|---|---|
| Academy Plaza Shopping Center | $2,500,000 | $1,438,000 | $1,062,000 |
| Bells Corner | $1,300,000 | $ 203,000 | $1,097,000 |
| Bells Corner Annex | $ 300,000 | $ 53,000 | $ 247,000 |
| N. W. side of Millbrook Rd.; Millbrook Apts., 102 apts. | $1,200,000 | $ 960,000 | $ 300,000 |
| S.W. side of Woodhaven; Vacant Land to Whiting | $ 100,000 | $ 25,000 | $ 75,000 |
| S.E. side of Academy Rd.; N.W. side of Cantebury Rd. (Medical Center) | $ 200,000 | $ 34,000 | Varying from 45% to CS to 100% $ 80,000 |
| Balance Ground, Academy and Cromwell Roads | $ 200,000 | $ 50,000 | $ 150,000 |
| Havenwood Shopping Center (gas station out) | $ 180,000 | $ 117,000 | $ 60,000 (total equity) |
| Keystone and Devereaux | $ 20,000 | None | $ 300,000 |
| Red Lion Village Complex; 25 apts. | $3,250,000 | §I $1,350,000<br>§II $1,600,000 | CS interest 67½% |
| | | $2,950,000 | $ 200,000 |
| Sisters Ground—Drainage right of way | $ 200,000 | | $ 200,000 |
| Bay Ha. oor Island, Miami | $ 175,000 | $ 35,000 | $ 140,000 |
| | $9,625,000 | $5,865,000 | $3,911,000 |

A24

*Note 1* In Deed Book JRS 535, p. 414, September 22, 1969, conveying Academy Plaza Shopping Center, Bells Corner, Cromwell and Academy Rds., Keystone Street and to Millbrook Rd.; Affidavit of Charles valuing property at $3,000,000.

*Note 2* In Deed Book CAD 985, p. 347, May 26, 1967, Academy Plaza, Inc. to Charles Simon and Sally Simon, Academy Plaza Shopping Center subject to mortgages of: $1,200,000 and $300,000; Affidavit of Charles Simon that fair value of property is $1,500,000.

*Note:* Portion in trust for children; lump payment excess of 10 yr. periodic tax to recipient

*Note:* Cost of Apt. $11,000-$12,000 subject 75-80% Shopping Ctr. 20 to 25 sq. ft.

*Note:* Cost Apt. unit $12,000
Land Value at $1,000 unit

A25

COMMONWEALTH OF PENNSYLVANIA ss: (AFFIDAVIT)
COUNTY OF PHILADELPHIA

ROBERT J. O'NEILL, being duly sworn according to law, deposes and says for a period of six years, he acted as a document examiner for the Police Department of the City of Philadelphia, in which connection he examined approximately 18,000 documents as to handwriting, identifications, handprinting, typewriters, charred documents, erasures and problems relative to questioned documents.

On September 30, 1974, there was submitted to me for the purpose of determining whether the handwriting shown as the signatures in the two described deeds were in the handwriting of Sally Lee Simon. The questioned documents were as follows:

Q-1 One (1) machine copy of a deed between Charles Simon and Sally Lee Simon to Charles Simon. Dated—September 22, 1969. Page number D-535,-414, of this document bears the questioned Sally Lee Simon signature.

Q-2 One (1) machine copy of a deed between Charles Simon and Sally L. Simon, H/W, aka Sally Lee Simon to Joseph H. Simon and Beverly W. Simon, H/W. Dated—November 10, 1969. Page number D-565-064 of this document bears the questioned Sally Lee Simon signature.

*Standards for Comparison*

S-1 Three (3) white sheets of paper each bears a Sally Lee Simon signature, submitted as the known signatures of this person.

S-2 One white sheet of paper (machine copy) of a document. Page number 17 bears a Sally Lee Simon signature submitted as the known signature of this person.



RESULTS OF EXAMINATION

Examination and comparison of the questioned Sally Lee Simon signatures with the known signatures of Sally Lee Simon submitted has shown differences of handwriting habit which cannot be accounted for. This precludes an identification of Sally Lee Simon as the writer of her signatures of the Q-1 and Q-2 documents. It is noted the Q-1 and Q-2 documents are copies; however, the differences that exist are clearly visable. It is not felt an examination of the original would alter this opinion.

All of which deponent avers to be true and correct.

/s/
ROBERT J. O'NEILL

Sworn to and Subscribed
before me this 22nd day
of July, 1976.

DEBORAH JOAN SAITTA

Notary Public

My Commission Expires:

[Notarial Seal]

Notary Public, Philadelphia, Philadelphia Co.
My Commission Expires September 19, 1977